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June 15, 2017

Marlene Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

RE: Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79

Dear Ms. Dortch:

The Georgia Municipal Association (GMA) is a voluntary, non-profit organization that provides legislative advocacy, educational, employee benefit, and technical consulting services to its members. It is the only state organization that represents municipal governments in Georgia. Currently, GMA's membership totals 521 municipal governments, accounting for more than 99% of the state's municipal population. GMA is pleased to have this opportunity to provide comments on the above notice.

"Deemed Granted" Remedy for Missing Shot Clock Deadlines (Section II A (1))

GMA strongly opposes the "deemed granted" remedies proposed in this NPRM. Similarly, we oppose any further shortening of shot clock timelines. 75% of cities in Georgia have a population of fewer than 5,000 and have very few staff available to perform a myriad of day to day administrative tasks for the city, from issuing building permits to processing water bill payments and maintaining all records and documents for the city. If the application is complicated, it will take municipal staff longer to process it.

In the NPRM, the FCC asks about state or local regulations that may prohibit or have the effect of prohibiting service, but not on industry practices that may do the same. In some cases, delays in acting on applications are due to a failure by the applicant to provide the city with complete information, which leads to delays in processing siting application approvals that are beyond the control of the local government. If the Commission wishes to eliminate barriers to broadband, it must eliminate barriers to local governments' efforts to expand broadband.

GMA provides its member cities with the option to participate in a Telecommunications and Right of Way Management Service (TRM), which provides technical assistance to program participants on all telecommunication issues. Cities enrolled in the TRM service obtain expert assistance in negotiating agreements with wireless companies which expedites the approval process for the applicant. Currently, the TRM has 150 participating Georgia local governments. The TRM program is also available to cities in Alabama, Arkansas, Mississippi, South Carolina, and Texas.

Through the TRM program, GMA has successfully negotiated a model right-of-way licensing agreement with Mobilitie, LLC, for placement of equipment in municipal right-of-way. The model agreement has been provided to GMA's members for their use in reaching their own individual agreements with Mobilitie regarding the placement of facilities in the right-of-way. The model agreement imposes reasonable regulations on the placement and maintenance of equipment in the right-of-way while also addressing reasonable compensation to be paid for Mobilitie's use of the right-of-way. This model agreement represents efforts of GMA to facilitate small cell deployments. Far from being a barrier to wireless broadband deployment, cities in Georgia are working to streamline processes for deploying broadband in their communities.

Georgia's local governments are collaborating with wireless infrastructure providers to ensure that wireless networks are deployed in a timely and reasonable fashion. For example, in Augusta, Georgia, infrastructure providers are conducting ride-alongs with municipal staff and engineers to examine requested sites and tackle potential issues such as collocation or interference with existing infrastructure.

Aesthetic Considerations (Section III B (92), "Prohibit or Have the Effect of Prohibiting")

In its NPRM, the FCC seeks comment on whether it should provide more specific guidance on how to distinguish legitimate denials based on evidence of specific aesthetic impacts of proposed facilities from mere "generalized concerns." GMA strongly opposes any further guidance restricting local aesthetic requirements or historical review, as proposed in the NPRM. Cities establish aesthetic standards based on input from their residents to address unique local concerns. Aesthetic characteristics are unique to each community and help establish a distinct "sense of place". These locally-developed guidelines have a direct bearing on a city's economic development efforts and ultimately impact property value, jobs, and residential and business tax levels in a community. Aesthetic requirements for wireless infrastructure in a small mountain city such as Helen, Georgia, will vary greatly from a historic coastal city like Savannah, Georgia. Federal guidance cannot adequately address the unique concerns of each community.

Compensation for use of Public Right of Way

We also urge the Commission not to further restrict fees collected for sites on publicly owned land. Local governments, much like private landlords, are entitled to collect rent for use of their property – and in the case of local governments, have a duty to their residents to insist upon appropriate compensation for the use of property belonging to the public, whether it is in the right of way or otherwise.

Additionally, state laws may outline requirements for local governments to be compensated for the use of public right-of-way. For example, the Georgia Constitution contains two prohibitions against donations of public property (GA. CONST. Art. III, Sec. VI, Par. VI; GA. CONST. Art. IX, Sec. II, Par. VIII). Because the public right-of-way are considered public assets, Georgia cities must receive fair market value for use of the right-of-way by a private company. This has been true for almost 100 years for electric companies, natural gas companies, and telephone companies, and since 1984 for cable companies.

This fair market value is not measured by what it costs the city to regulate the right-of-way but rather by what it would cost the user of the right-of-way to purchase access from a private property owner. Local taxpayers should not be required to subsidize the placement of new technologies in the right-of-way. Federal law does not require this but instead recognizes that existing and new users of the right-of-way should be treated in a competitively neutral and nondiscriminatory way. Franchise fees are a well-known and long established cost of doing business for users of the right-of-way. Those who do not want to pay them are certainly free to negotiate and purchase easements through private property.

As of July 1, 2008, telephone companies certified by the Georgia Public Service Commission are required by Georgia law to obtain local government approval to maintain and operate lines and facilities in municipal streets. The law, found in Chapter 5 of Title 46 of the Georgia Code, creates a standardized local application process and a standard form of "due compensation" to be paid by telephone companies. Due compensation comes from companies serving retail, end user customers located within the boundaries of a municipality and is three percent (3%) of local recurring revenues. The Georgia Telecom statute O.C.G.A. § 46-5-1 requires cities in Georgia not to charge more than the amounts Georgia Department of Transportation (GDOT) charges for use of the ROW and when working with Georgia's cities, GMA shadows GDOT regulations as closely as possible.

Utility Undergrounding (under NPRM "Unreasonable Discrimination" III D (97))

Common language that has been included for 30 years or more in cable franchise dealing with undergrounding states that, "The facilities of Grantee shall be installed underground in those areas of City where existing telephone and electric services are both underground at the time of construction by Grantee. In areas where either telephone or electric utility facilities are installed aerially at the time of System construction, Grantee may install its facilities aerially; however, at such time as the existing aerial facilities are placed underground, Grantee shall likewise place its facilities underground at its sole cost. If City requires utilities to bury lines which are currently overhead, and the City financially participates in said undergrounding, then the City will consider providing the same cost sharing to the Grantee."

Wireless providers are seeking special access, not neutral access, to public right of way. If the local jurisdiction requires undergrounding of electric and cable connections, wireless providers should be subject to the same requirement. The same arguments that prevail about historic preservation should be applicable here. Those companies that do not wish to comply with local regulations on utility undergrounding are certainly free to negotiate and purchase easements through private property.

Broadband Deployment Advisory Committee

On May 8, 2017, Valdosta, Georgia City Manager Larry Hanson was appointed by Chairman Pai to serve on the Broadband Deployment Advisory Committee (BDAC) Model Code for Municipalities Working Group. GMA appreciates the opportunity for a Georgia city official to be included in the process to provide collaborative input via the BDAC. However, we request that BDAC be given time to work through the process before the FCC issues regulations on the matter of wireless broadband deployment.

GMA supports local authority to put into place regulations and procedures that will facilitate broadband deployment while protecting community values and allowing for reasonable compensation for the use of public right-of-way. GMA has successfully cultivated working relationships with small cell providers such as Mobilitie, LLC, allowing them to deploy broadband equipment in communities throughout the state while complying with local regulations that preserve community values. GMA urges the FCC to allow local governments the flexibility to continue to negotiate with small cell providers to arrive at mutually beneficial arrangements for broadband deployment. Georgia is a state where the process is working to facilitate getting broadband to communities that desperately need it. We urge the Commission to incentivize efforts like those that are working in Georgia, rather than focusing on efforts to preempt or punish local governments.

Sincerely,



Lamar Norton
Executive Director